



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 22, 2013

Ms. Neera Chatterjee
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2013-18358

Dear Ms. Chatterjee:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 503480 (OGC# 151275).

The University of Texas System (the "system") received a request for the application portfolio of a named individual. You state the system has released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also inform us release of the submitted information may implicate the proprietary interests of the University of Texas Health Science Center at San Antonio ("UTHSCSA") and the Texas Tech University System. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from UTHSCSA. We have reviewed the submitted information and the submitted arguments.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information protected by other statutes, such as section 161.032 of the Health and Safety Code, which provides, in relevant part:

(a) The records and proceedings of a medical committee are confidential and are not subject to court subpoena.

...

(c) Records, information, or reports of a medical committee, medical peer review committee, or compliance officer and records, information, or reports provided by a medical committee, medical peer review committee, or compliance officer to the governing body of a public hospital, hospital district, or hospital authority are not subject to disclosure under [the Act].

Health & Safety Code § 161.032(a), (c). A “medical committee” is any committee of a university medical school or health science center. *See id.* § 161.031(a)(3). Section 161.0315 provides in relevant part that “[the] governing body of a . . . university medical school or health science center . . . may form . . . a medical committee, as defined by Section 161.031, to evaluate medical and health care services[.]” *Id.* § 161.0315(a).

The precise scope of the “medical committee” provision has been the subject of a number of judicial decisions. *See, e.g., Mem’l Hosp.—The Woodlands v. McCown*, 927 S.W.2d 1 (Tex. 1996); *Barnes v. Whittington*, 751 S.W.2d 493 (Tex. 1988); *Jordan v. Fourth Supreme Judicial Dist.*, 701 S.W.2d 644 (Tex. 1986). These cases establish “documents generated by the committee in order to conduct open and thorough review” are confidential. *Mem’l Hosp.*, 927 S.W.2d at 10; *Jordan*, 701 S.W.2d at 647-48; *Doctor’s Hosp. v. West*, 765 S.W.2d 812, 814 (Tex. App.—Houston [1st Dist.] 1988, no writ). This protection extends “to documents that have been prepared by or at the direction of the committee for committee purposes.” *Jordan*, 701 S.W.2d at 647-48. Protection does not extend to documents “gratuitously submitted to a committee” or “created without committee impetus and purpose.” *Id.*; *see also* Open Records Decision No. 591 (1991) (construing statutory predecessor to Health & Safety Code § 161.032).

UTHSCSA asserts the submitted information is made confidential by section 161.032 of the Health and Safety Code as records of a medical committee. UTHSCSA states the submitted information was created for or considered by UTHSCSA’s school of medicine admissions committee (the “committee”) for the purpose of evaluating an applicant to UTHSCSA’s medical school. UTHSCSA states the committee consists of faculty members within the school of medicine and is charged with reviewing and evaluating medical school admissions applications. UTHSCSA further states the committee is responsible for upholding UTHSCSA’s mission of providing the best medical care possible and improving health by educating health science professionals and preparing graduates for providing primary patient medical services. Based on these representations, we find the committee is a “medical committee” for purposes of section 161.032 of the Health and Safety Code. Accordingly, we determine the submitted information constitutes confidential records of a medical committee under section 161.032 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/ac

Ref: ID# 503480

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Gary Sertich
The University of Texas Health Science Center at San Antonio
Office of Legal Affairs - AAB3.340
7703 Floyd Curl Drive, MSC 7746
San Antonio, Texas 78229-3900
(w/o enclosures)

Mr. Ronny Wall
Texas Tech University System
c/o Neera Chatterjee
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902
(w/o enclosures)